

**Amendments to the Drawings:**

Applicants request approval of the amendments to the drawings. The sheet of the replacement drawing attached to the end of this paper includes changes to FIG. 2A. The change includes a deletion of the reference numeral "54a" and a substitution of the reference numeral --54--.

This replacement sheet includes FIG. 2A and replaces the original sheet that included FIG. 2A.

## Remarks

The drawings and claims have been amended to provide further clarification. Claims 1 – 22 have been canceled. New claims have been added to provide adequate coverage for Applicants' contribution to the art. The amendments are clearly supported by the original disclosure, particularly at paragraphs [32] and [72], and original claims 17 through 19. Reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

The present invention provides a cutting method and apparatus, comprising a rotary cutter having an axis of rotation and an outer peripheral, rim surface. A cutter array having at least one cutter die can be located on the rim surface, and the cutter die can have a die perimeter and a die height. A resilient, primary insert can be joined to the rotary cutter, and can be located within the die perimeter operatively adjacent to said die perimeter. The primary insert can have a primary-insert perimeter, and an operatively high-resistance to deformation. Further aspects are set forth in the specification and claims.

With its various aspects and configurations, the apparatus and method of the present invention can more efficiently and more effectively cut a target web. The cutting can be accomplished while substantially avoiding undesired breaks or fractures of component portions of the target web. The apparatus and method can also help eliminate the need for additional processing equipment, and can help reduce manufacturing costs.

The Examiner has objected to previously presented claims 11, 12, 15 and 17. In view of the amendments to the claims, it is believed that the Examiner's objections have been obviated.

Claims 11 – 12 have been alleged to be actionable under 35 U.S.C. § 102 based on U.S. Patent 5,388,489 to Dayley. This action is respectfully **traversed** to the extent that it may apply to the currently presented claims.

Dayley describes a dough-processing system for dividing a dough sheet into multiple separate portions and transporting each portion in a predetermined direction. A rotary cutter, having a multiplicity of cutting dies affixed thereon, divides the dough sheet. The cutting dies have an exterior peripheral cutting edge for cutting the linear dough sheet into two or more linear portions for further processing on standard conveyor systems and an interior peripheral cutting edge for cutting an interior portion from the snack-piece dough. The rotary cutter includes an internal helical auger rigidly affixed to an external cylindrical mandrill having first and second ends and having a multiplicity of cutting dies affixed thereon. The rotary cutter has an ever-increasing diameter funnel

path for transporting the interior cut portion of the snack-piece dough into the interior of the rotary cutter and thereupon the helical auger transports it out to the side of the rotary cutter. Each cutting die has rotatable, compressible biasing springs affixed between the exterior peripheral cutting edge and the interior peripheral cutting edge for selectively ejecting first one portion and then another portion of the snack-piece dough out of the cutting die while not interfering with cutting or deforming the snack-piece dough.

Dayley, however, does not disclose or suggest an arrangement where the article web has included a substrate layer; a first component layer; and a plurality of individual absorbent members which have been positioned at spaced-apart locations along a longitudinal direction of the article web, as called for by the currently presented claims. Neither does Dayley disclose or suggest an arrangement where an absorbent member has been sandwiched between the first component layer and the substrate layer. Dayley also does not teach an arrangement where a resilient, primary insert has been configured to provide a pressure that is sufficient to provide an operative perimeter bond along at least a portion of a perimeter region of at least a one of the absorbent members during the cutting of the article web with the rotary cutter. Additionally, Dayley does not teach an arrangement where the article web further includes a pattern of adhesive that has been distributed at least along a portion of a bonding region of the article web, between the first component layer and the substrate layer. It is, therefore, readily apparent that Dayley does not disclose or suggest the invention called for by Applicants' currently presented claims.

Accordingly, reconsideration and withdrawal of the Examiner's actions under 35 U.S.C. § 102 are respectfully requested.

Claim 11 has been alleged to be actionable under 35 U.S.C. § 102 based on U.S. Patent 5,405,486 to Sablotsky et al. (Sablotsky). This action is respectfully **traversed** to the extent that it may apply to the currently presented claims.

Sablotsky describes a method and apparatus for forming a transdermal drug delivery device from a multilayer web comprised of a backing layer, a drug-containing pressure sensitive adhesive layer, and a release layer or liner in which cutting is progressively achieved along a line coplanar with the axes of a cutting roller and anvil roller counter-rotating in proximity to each other. In one embodiment, cutting is achieved completely through the web about the periphery of the transdermal drug delivery device, while simultaneously achieving a scoring only of the release liner without penetration of the pressure sensitive adhesive layer or backing layer. In an alternate embodiment there are two arrangements of rollers. A first arrangement has a cutting edge for

scoring the web. After scoring, the web is passed to a second arrangement for cutting through the web to result in the transdermal drug delivery device.

Sablotsky, however, does not disclose or suggest an arrangement where the article web has included a substrate layer; a first component layer; and a plurality of individual absorbent members which have been positioned at spaced-apart locations along a longitudinal direction of the article web, as called for by the currently presented claims. Neither does Sablotsky disclose or suggest an arrangement where an absorbent member has been sandwiched between the first component layer and the substrate layer. Sablotsky also does not teach an arrangement where a resilient, primary insert has been configured to provide a pressure that is sufficient to provide an operative perimeter bond along at least a portion of a perimeter region of at least a one of the absorbent members during the cutting of the article web with the rotary cutter. Additionally, Sablotsky does not teach an arrangement where the primary insert has a substantially annular configuration, as called for by particular claims of Applicants. It is, therefore, readily apparent that Sablotsky does not disclose or suggest the invention called for by Applicants' currently presented claims.

Accordingly, reconsideration and withdrawal of the Examiner's actions under 35 U.S.C. § 102 are respectfully requested.

Claims 13 – 14 have been alleged to be actionable under 35 U.S.C. § 103 based on U.S. Patent 5,405,486 to Sablotsky et al. (Sablotsky). This action is respectfully **traversed** to the extent that it may apply to the currently presented claims.

It is respectfully submitted that the Examiner's actions under 35 U.S.C. §103, based on the teachings of the cited references are not proper, and that the teachings of the cited references do not render obvious a structure having the combination of components called for by Applicants' claimed invention. It is submitted that the Examiner has not established *prima facie* that a proper combination of the cited references would disclose or suggest Applicants' claimed invention.

It is well accepted that, as a minimum, a *prima facie* case of obviousness must contain the following elements:

- 1) there must be a basis in the reference for a modification;
- 2) there must be a reasonable expectation of success -- obvious to "try" is not the standard; and
- 3) the prior art must render obvious the invention as a whole.

In addition, it is not appropriate to engage in hindsight. It is inappropriate to pick and choose isolated elements from various prior art references and combine them so as to yield the invention

in question when such combining would not have been an obvious thing to do at the time in question. Panduit Corporation v. Dennison Manufacturing Company, 227 USPQ 337 (Fed. Cir. 1985).

The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious, unless the prior art suggested the desirability of the modification. In re Gordon, 733 F.2d at 902, 221 USPQ at 1127. In re Fritch, 23 USPQ 2nd 1780, 1783-1784 (Fed. Cir. 1992).

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. In re Gorman, 933 Fed. 2nd 982, 987. 18 USPQ 2d 1885, 1888 (Fed. Cir. 1991). In re Fritch, 23 USPQ 2nd 1780 at 1784 (Fed. Cir. 1992). One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. In re Fine, 837 Fed. 2d at 1075, 5 USPQ 2d at 1600. In re Fritch, 23 USPQ 2nd 1780 at 1784 (Fed. Cir. 1992). Where the cited references do not teach how to make the particular combinations needed to arrive at the invention called for by Applicants' claims, the claimed invention cannot be deemed "obvious". Ex parte Levengood, 1993.

It is also well established that a prior art reference must be evaluated as an entirety and that the prior art must be evaluated as a whole. W. L. Gore and Associates, Inc. v. Garlock, Inc., 220 USPQ 303 (Fed. Cir. 1983). Where neither any reference considered in its entirety, nor the prior art as a whole, suggests the combination claimed, the invention is non-obvious. Fromson v. Advance Offset Plate, Inc., 225 USPQ 26 (Fed. Cir. 1985).

As disclosed by Sablotsky, cutting is progressively achieved along a line coplanar with the axes of a cutting roller and anvil roller counter-rotating in proximity to each other. In one embodiment, cutting is achieved completely through the web about the periphery of the transdermal drug delivery device, while simultaneously achieving a scoring only of the release liner. When the disclosure of Sablotsky is considered in its entirety, however, a person of ordinary skill would not be led to the distinctive changes and modifications needed to synthesize the invention called for by Applicants' currently presented claims.

Sablotsky does not suggest a modification where the article web has included a substrate layer; a first component layer; and a plurality of individual absorbent members which have been positioned at spaced-apart locations along a longitudinal direction of the article web. Neither does Sablotsky suggest a modification where an absorbent member has been sandwiched between the first

component layer and the substrate layer. Sablotsky also does not teach a modification where a resilient, primary insert has been configured to provide a pressure that is sufficient to provide an operative perimeter bond along at least a portion of a perimeter region of at least a one of the absorbent members during the cutting of the article web with the rotary cutter. Additionally, Sablotsky does not suggest other modifications where the primary insert has a substantially annular configuration and the article web further includes a pattern of adhesive that has been distributed at least along a portion of a bonding region of the article web, between the first component layer and the substrate layer, as called for by Applicants' currently presented claims.

Only through impermissible hindsight and the impermissible use the claimed invention as an instruction manual or "template" to pick and choose from a myriad of disparate components would the claimed invention become apparent to the person of ordinary skill. It is, therefore, readily apparent that a proper consideration of Sablotsky would fail to disclose or suggest Applicants' claimed invention.

Accordingly, reconsideration and withdrawal of the Examiner's actions under 35 U.S.C. § 103 are respectfully requested.

Claims 15 – 18 have been alleged to be actionable under 35 U.S.C. § 103 based on U.S. Patent 5,405,486 to Sablotsky et al. (Sablotsky) in view of U.S. Patent 6,264,784 to Menard et al. (Menard). This action is respectfully **traversed** to the extent that it may apply to the currently presented claims.

Sablotsky describes a method and apparatus for forming a transdermal drug delivery device from a multilayer web comprised of a backing layer, a drug-containing pressure sensitive adhesive layer, and a release layer or liner. In one embodiment, cutting is achieved completely through the web about the periphery of the transdermal drug delivery device, while simultaneously achieving a scoring only of the release liner without penetration of the pressure sensitive adhesive layer or backing layer.

Menard describes a method and apparatus for forming and attaching tabs to an absorbent article worn in the perineal portion of the body, such as sanitary napkins. A strip of tab material is cut into two tab strips. The tab strips are then cut into tab pairs and attached to a strip of absorbent article using an adhesive. In an alternate embodiment, the tab pairs are first attached to a layer of material which is then attached to a second layer of material on which an absorbent core is disposed, thereby enclosing the absorbent core.

When the disclosures of Sablotsky and Menard are considered as a whole and in their entireties, however, a person of ordinary skill would not be led to the distinctive changes and modifications needed to generate the invention called for by Applicants' currently presented claims.

Sablotsky describes a method and apparatus for forming a transdermal drug delivery device from a web wherein the cutting is achieved completely through the web about the periphery of the transdermal drug delivery device, while simultaneously achieving a scoring only of the release liner. In contrast, the method and apparatus of Menard cuts a strip of tab material into two tab strips. The tab strips are cut into tab pairs, which are then attached to a strip of absorbent article.

It is readily apparent that method and apparatus taught by Sablotsky significantly differs from the method and apparatus of Menard. A person of ordinary skill would understand that the cutting operations of Sablotsky and Menard have significantly different objectives. Accordingly, the person of ordinary skill would not receive any suggestion from Sablotsky or Menard to combine the teachings of the two documents, and would have no motivation to make the distinctive changes and modifications needed to synthesize Applicants' claimed invention.

Even if one assumes for the sake of argument that the person of ordinary skill would somehow make a combination of Sablotsky and Menard, Menard would still fail to cure the deficiencies of Sablotsky. A proper combination of Sablotsky and Menard would at most suggest an arrangement where a strip of tab material is cut into two tab strips, the tab strips are then cut into tab pairs, and the tab pairs are then attached to a strip of Sablotsky's multi-layer transdermal drug delivery devices with the scored release liner.

A proper combination of Sablotsky and Menard would, however, still fail to disclose or suggest an arrangement where a resilient, primary insert has been configured to provide a pressure that is sufficient to provide an operative perimeter bond along at least a portion of a perimeter region of an absorbent member during the cutting of the article web with the rotary cutter, as called for by Applicants' currently presented claims. Additionally, a proper combination of Sablotsky and Menard does not teach an arrangement where the primary insert has a substantially annular configuration, or where the primary insert is removably attached with a refastenable attachment, as called for by the currently presented claims. It is, therefore, readily apparent that a proper combination of Sablotsky and Menard would not disclose or suggest the invention called for by Applicants' currently presented claims.

Accordingly, reconsideration and withdrawal of the Examiner's actions under 35 U.S.C. § 103 are respectfully requested.

Claims 19 – 20 have been alleged to be actionable under 35 U.S.C. § 103 based on U.S. Patent 5,405,486 to Sablotsky et al. (Sablotsky) in view of U.S. Patent 4,886,632 to Menard et al. (Menard), and further in view of U.S. Patent 6,736,182 to Smith et al. (Smith). This action is respectfully **traversed** to the extent that it may apply to the currently presented claims.

Smith describes a crimper assembly which forms end seals in overlapping portions of the sheet of packaging material after being folded about an article. The crimper assembly includes a crimper including a base, an insert that is formed from a resilient material, and a support plate that is formed from a rigid material. The insert has a surface that is adapted to engage and seal overlapping layers of a packaging material. The insert is disposed between the base and the support plate. The support plate is secured to the body to retain and support the insert thereon. The insert and the support plate may be formed as separate pieces or may be secured together as a single piece. To prevent excessive compression of the insert, the insert can have an aperture formed therethrough, and the support plate can have a protrusion formed thereon that extends through the aperture into abutment with the base. Alternatively, the insert can include a pair of bushings, and such bushings are engaged between the base and the support plate to prevent excessive compression. The crimper assembly may also include a cutting knife which fits into an assembly slot.

When Sablotsky, Menard and Smith are considered in their entirety, a person of ordinary skill would not be led to the changes needed to generate Applicants' claimed invention. A proper combination of Sablotsky, Menard and Smith would at most suggest a use of Smith's crimper assembly to seal and cut a packaging material that has been placed about the article provided by Sablotsky or Menard.

Smith, however, fails to cure the deficiencies of Sablotsky and Menard. A proper combination of Sablotsky, Menard and Smith would still fail to disclose or suggest an arrangement where a resilient, primary insert has been configured to provide a pressure that is sufficient to provide an operative perimeter bond along a perimeter region of an absorbent member during the cutting of the article web with the rotary cutter, as called for by the claimed invention. Additionally, a proper combination of Sablotsky, Menard and Smith does not suggest an arrangement where the primary insert has a substantially annular configuration, or where the primary insert is removably attached with a refastenable attachment, as called for by particular claims of Applicants. It is, therefore, readily apparent that a proper combination of Sablotsky, Menard and Smith would not disclose or suggest the invention called for by Applicants' currently presented claims.



Accordingly, reconsideration and withdrawal of the Examiner's actions under 35 U.S.C. § 103 are respectfully requested.

Claim 21 has been alleged to be actionable under 35 U.S.C. § 103 based on U.S. Patent 5,405,486 to Sablotsky et al. (Sablotsky) in view of U.S. Patent 4,886,632 to Van Iten et al. (Van Iten).

Van Iten describes a method of perforating a nonwoven web of fibrous fabric by directing the web through a nip defined by first and second moveable members. As the web moves through the nip it is penetrated by a plurality of heated pins projecting from the first member which enter heated apertures formed in the second member. The penetration of the pins causes the fibers of the fabric to separate and enter into the apertures and form openings through the web. The openings are surrounded by dense consolidated rings exhibiting greater hydrophilic properties than the nonperforated surface of the web.

It is submitted that the operation of perforating a nonwoven fabric, as taught by Van Iten, significantly differs from the operation of cutting an article web along the perimeter of a cutting die. As a result, a person of ordinary skill would understand that the cutting operation would require a significantly different level of precision and consistency, and would understand that the speeds employed for the perforating operation would not be suitable for a consistent die cutting operation. Accordingly, the person of ordinary skill would not make the combination of Sablotsky and Van Iten that has been urged by the Examiner.

Even if one assumes for the sake of argument that the person of ordinary skill would somehow make the combination urged by the Examiner, it is submitted that for the reasons previously presented herein, Van Iten would still fail to cure the deficiencies of Sablotsky. A proper combination of Sablotsky and Van Iten would still fail to disclose or suggest an arrangement where the article web has included a substrate layer; a first component layer; and a plurality of individual absorbent members which have been positioned at spaced-apart locations along a longitudinal direction of the article web, as called for by the currently presented claims. Neither does a proper combination of Sablotsky and Van Iten disclose or suggest an arrangement where an absorbent member has been sandwiched between the first component layer and the substrate layer. A proper combination of Sablotsky and Van Iten also does not teach an arrangement where a resilient, primary insert has been configured to provide a pressure that is sufficient to provide an operative perimeter bond along at least a portion of a perimeter region of at least one of the absorbent members during the cutting of the article web with the rotary cutter. Additionally, a proper combination of Sablotsky and Van Iten does not teach an arrangement where the primary insert

has a substantially annular configuration, or where the primary insert is removably attached with a refastenable attachment, as called for by Applicants' claimed invention.

It is, therefore, readily apparent that a proper combination of Sablotsky and Van Iten would still fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of the Examiner's actions under 35 U.S.C. § 103 are respectfully requested.

Claim 22 has been objected to as being dependent upon a rejected base claim. To address the Examiner's objections, new claim 23 is currently presented. It is respectfully submitted that new claim 23 is in allowable condition.

The Examiner has objected to the drawings. It is believed that the requested amendment to FIG. 2A would address the Examiner's objection.

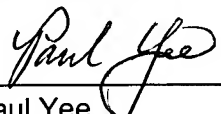
The prior art of record and not relied upon has been considered pertinent to Applicants' disclosure. It is readily apparent that such art does not disclose or suggest the invention called for by Applicants' currently presented claims.

For the reasons stated above, it is respectfully submitted that all of the presented claims are in form for allowance. Accordingly, reconsideration and withdrawal of the Examiner's actions, and allowance of the currently presented claims are earnestly solicited.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-2435.

Respectfully submitted,  
RICHARD J. OGLE, ET AL.

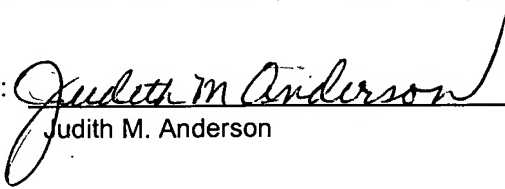
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CERTIFICATE OF MAILING

I, Judith M. Anderson, hereby certify that on January 9, 2006 this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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